

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JANE DOE 130,

Plaintiff,

v.

**THE ARCHDIOCESE OF PORTLAND IN
OREGON, THE ROMAN CATHOLIC
ARCHBISHOP OF PORTLAND IN OREGON,
and FR. J.V.H.,**

Defendants.

MOSMAN, J.,

No. CV 08-193-PK

OPINION & ORDER

On April 8, 2010, Magistrate Judge Papak issued Findings and Recommendation ("F&R") (#82) in the above-captioned case recommending that I DENY plaintiff's Motion to Compel (#44), DISMISS plaintiff's claim of misrepresentation, DENY AS MOOT defendants' Motion to Dismiss (#52) as to Jane's misrepresentation claim, DENY the remainder of the Motion to Dismiss (#52), and GRANT IN PART AND DENY IN PART defendants' Motion for Judicial Notice (#54). No objections were filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may

file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation, and I ADOPT the F&R (#82) as my own opinion. Plaintiff's Motion to Compel (#44) is DENIED. Plaintiff's claim of misrepresentation is DISMISSED without prejudice. Defendants' Motion to Dismiss (#52) is DENIED AS MOOT with respect to the misrepresentation claim and otherwise DENIED. Defendants' Motion for Judicial Notice (#54) is GRANTED IN PART AND DENIED IN PART as described in Judge Papak's F&R.

IT IS SO ORDERED.

DATED this 4th day of May, 2010.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court